IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

APPEAL FROM ORDER NO.456 OF 2004

Mugdha Shripad Khursale & Ors. ... Appellants

V/s.

Harsh Pradyumn Puntambekar & Ors. ... Respondents

Mr.M.V. Limaye with Mr.R.S. Apte for Appellants
Mr.J.S. Deo for Respondent Nos.2,3 4 and 6

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **DECEMBER 13, 2004**

P.C.:

. By an order dated 16.2.2004, the Exhibit 5 application has been dismissed and temporary injunction has been refused to the appellants. The appellants, therefore, have approached this Court. In the present Appeal from Order which was directed to be placed for hearing at the stage of admission, on 28.4.2004, this Court had restrained respondent Nos.1 to 4 from taking steps for executing the decree passed in S.C. Suit No.1152 of 1995. The appellants have approached this Court claiming that they have an independent share in the ancestral property by virtue of the amendment to Hindu Succession Act incorporated in section 29A. They claim that the partition effected in Special Civil Suit No.1152 of 1995 has to be set aside and that they are

not bound by it.

2. Mr.Limaye, appearing for the appellants, states that the plaintiffs' examination-in-chief is complete and cross-examination is being proceeded with before the trial Court. I see no reason to decide the Exhibit 5 application at this stage in view of the aforesaid development. The execution of the decree in Special Civil Suit No.1152 of 1995 has been stayed since April, 2004. This stay shall continue pending the decision in Special Civil Suit No.1 of 2003.

3. Appeal from Order is disposed of accordingly.

4. In view of the Appeal from Order being disposed of, nothing survives in Civil Application No.682 of 2004 and the same is disposed of accordingly.